

6/15/06 5:40 PM
Notes for Harper's

What I want to evoke is:

A leak of **documents** on the scale of the Pentagon Papers: 1000-4000 pages.

But, unlike PP;

On the **current** administration (not "history," not previous administrations).

Especially, forward-looking: plans, aims, option: but in particular, internal debate about these, controversies, critiques, cost estimates, estimates of feasibility, estimates of enemy and others' responses, risks.

Above all, **internal, authoritative critiques** of proposals favored by "hawks" or the top officials: "dove" analyses of the sort not widely circulated, including judgments of illegality or extreme recklessness ("rash to the point of folly"; "catastrophe" "cut losses"; "Laotian solution" (RFK to me in fall 1967); the sort that I saw only briefly in June, 1965, because of internal "sensitivity." (What if I could have released those! Not that I would have thought of that at the time. But in 1967...!

Comprehensive accounts of policy debates (as in the PP), not just individual "shocking" memos which could be discounted as "contingency plans," "extreme" views, low-level proposals that were ignored by high officials or unknown to them or were discarded shortly.

I want people with access to such material to consider releasing it—and I want some of them to do so—despite large personal risks to doing so.

Moreover, I encourage them—unlike my own example—(a) to release these documents to the press, at the same time as (or instead of) to Congress; and (b) not to one paper only (unless it publishes immediately) but to several or all. Thus, I would advise them not to do what I did—wait sixteen months for Congress to act before going to a newspaper. Nor should they wait over a year for a single newspaper to decide to publish the revelations, like the sources of the illegal NSA taps to the New York Times, before they go to others.

Their risks are especially large if they do release, as I hope, material of such scope, timeliness and sensitivity that (a) it has a high chance of being effective, more than either the Pentagon Papers or recent, fragmentary and oral leaks; but also (b) the leakers are more likely to be identified as the source, even if they prefer and attempt to remain anonymous.

To insist on anonymity, and to make disclosures that seem to make that possible and in ways that minimize the risk of being identified—which is almost universally the mode of leaking—is, as experience has shown—to reduce very sharply the likelihood of effectiveness in arousing public and Congressional awareness, concern and response. In particular, it leads to withholding any **documents**, or releasing them too late, or releasing them on too small a scale, to have any effect. Or they make their disclosures only to (single members, or committees, of) Congress, or only to one reporter, which in either case fails to disclose them.

(See Jim Thompson on the psychology of making revelations only gradually. Refer to his articles.) This probably applies to Clarke, Scheuer, Adams, McGovern, VIPS, etc. It also applies even to Joe Wilson: see the gradual escalation of his process of disclosure, with the administration response only going into high gear when he signed his name to an op-ed with mass circulation. **My hope is to speed up this process!**

Thus, although martyrdom is not essential, at all, to the effects I want to achieve, nor is public testimony by the source (if documents are revealed), I do want disclosures to be made on a scale and timing such that personal identification and probably prosecution of the sources, and even prison time, are neither minimized nor unlikely.

For what I am calling for, the risk of prosecution, and even conviction and prison, will be large whatever the state of the law: even if it returns to what it was in 1971, or becomes better; or, much more likely, remains what it is now, or what, unfortunately, it is likely to become if present trends continue, especially after another 9-11.

That will take courage of an unusual sort—civil courage—and, unfortunately, unusual scale.

What I want is unprecedented. No one, including me, has ever done it (though the risks I accepted, and actually experienced as risks, were as great as is ever likely to occur: and not only of prison). Katharine Gun is the only one to have released **in time, before a war, an actual document** that had a real chance of affecting events and averting war (by her own country), and also the only one to be prosecuted—having revealed herself—for doing so, with a high likelihood of serving time. But she was not in a position to reveal more than a single sensitive document (so far as we know) (and, it happens, her act was effectively blacked out, or anyway ignored, in the American press).

I would have done what I'm asking, if I had been able to. And so would she. And perhaps (by Bill Zimmerman's estimate) so would a hundred thousand other Americans in the Sixties and early Seventies ("jail-going was simply not a deterrent to these young people") but unfortunately, not many my age or older or who had actual access to such documents. When I say, "not many" of the latter, I'm giving the benefit of the doubt to some who might have done so if they had ever thought hard about it and, like me, had the unusual advantage of meeting and being challenged and inspired by young anti-war activists who were giving their all.

But not one other official during the long Vietnam war actually **took any risk whatever of losing his clearance, job, career, let alone prison—in order to save lives, American or Vietnamese.** (It's in that context that I'm still perceived as having shown unusual courage.)

A very few did take some risk of access or even promotion (and some lost it) by expressing dissent forcefully within channels. [And Jim Thomson and Mort Halperin and Roger Morris actually lost the possibility of serving later administrations, by their antiwar stance. The NSC-5 actually resigned (though, silently) after Cambodia. (Along with Halperin and Morris, Lake, Lynn and Watts. Lake's continued silence made him eligible for high jobs under Carter and Clinton.

Halperin was appointed by Clinton, though not Carter, but couldn't keep a job, in part because of his work in my trial, that required Senate confirmation. And even Lake was denied being head of CIA (though he did reject, under questioning, what I had done.) The same was true of Warnke and Sorensen with respect to being head of CIA. In part, for Sorensen, this was because he had given my defense team an affidavit about his own use of classified papers in his historical memoir.) (As Bernard Brodie told me, he could submit such an affidavit himself only because he no longer cared whether he kept a clearance. And note what happened to Mel Gurtov when he was quoted in the NYT on July 4, 1971, as approving what I had done! He lost his consultancy that day. (What happened to his clearance?! ASK.))

NOTE MY OSTRACISM by my Rand colleagues, and faculty seminars, after my indictment. "Cutting off the umbilical cord." The need for WB's to find a new community—and possibility of doing so.

Costs that Wbs face. Joan Zimmerman: "Leakers of the world, unite! (Officials of the world, leak!) You have nothing to lose but everything you have": clearance, job, career, respect of your peers, reputation, standard of living, marriage, children's education, and possibly freedom.

Some remedies, to reduce risks and costs. Need for employment of WB's! (See Tice; and Jessalyn Radack. And most WB's.) And legal help. And new legislation: repeal/modify 793; modify 798; avert OSA; get federal shield law (but that won't probably cover classified leaks!) Reverse Morrison decision. Add my proviso to secrecy oaths, by legislation: "Nothing in this obliges me or permits me, legally, to lie to Congress or courts, or in particular to commit perjury." (Lie to higher or other officials, other than FBI? Or to public? This is neither unconstitutional nor illegal. Nor, in practice, can government be conducted without it!)

Nevertheless, for what **I'm** asking, the risks—even of prison—can't be reduced significantly.

What is necessary is the willingness to pay such a cost. Obviously, it can only be for the gravest circumstances—which are not, in fact, very unusual—where lives, many lives, or

*Make request
in article
for hearings
to be full*

constitutional principles, are at stake. And even then, people in a position to accept such risks and penalties must be made aware that their act has a real chance to be effective in saving lives or protecting democracy, not merely symbolic or sacrificial. And that is true: but only, probably, if it is done on a scale and timeliness described above: which in turn is what contributes to the high risk.

On a smaller scale, or later, without documents, anonymously, the risk of discovery is very much less: though the personal costs if one **is** nevertheless discovered are almost as great as for a much larger, timely revelation of documents. Thus, most leaks involve small risk (after all, very, very few leaks lead even to discipline or firing) and small likelihood of effect. The latter ineffectiveness is probably the major reason that few officials, even if they strongly dissent from policy and have access to explosive information, leak at all or even consider it.

What doesn't occur to them to do—and after all, they have almost no precedents other than the Pentagon Papers 35 years ago—is a large-scale, timely revelation of documents, along with comprehensive and fully candid testimony. Even the PP were not a precedent for this—it has never been done—nor were even the PP an example of direct effect on policy (as distinct from public opinion). If it did occur to them, the obvious great risks would be a strong deterrent, more than enough for most officials who gave it any thought at all (perhaps inspired by me). What I am claiming—and need to make plausible—is the possibility of **great effect for great risk**, rather than no effect for little risk: as in the usual leaks, or possible resignations with silence (“exit without voice,” in Hirschman’s phrase).

And I am also making two other observations, which need to be made plausible. First, a current crisis, in which great effect, quickly, is urgently needed, and for which no other alternatives offer as much promise. Second, under the circumstances, a true moral imperative to accept the risks of telling important truths publically. Actually-existing norms--the demands of socially-conditioned consciences--have to be challenged and changed: as to the nature and priority of various loyalties, oaths and agreements, standards of patriotism and citizen obligation.

[1797 words]